

Honorable D. Kent King
Commissioner
Missouri Department of Elementary and Secondary Education
P. P. Box 480
Jefferson City, Missouri 65102-0480

Dear Commissioner King:

The purpose of this letter is to respond to Missouri's submission of its Part B Improvement Plan (IP), which was developed in conjunction with the State's Steering Committee. The IP is a component of the Continuous Improvement Monitoring Process (CIMP) implemented by the Office of Special Education Programs (OSEP). Missouri's IP, dated July 3, 2003, responds to OSEP's March 20, 2003 Self-Assessment response letter. The IP is intended to focus Missouri's activities toward improved results and accountability for children with disabilities and their families under Part B of the Individuals with Disabilities Education Act (IDEA). We appreciate the State's use of current data in its IP submission and apologize for the delay in responding to the State's submission.

OSEP conducted a monitoring review of the Missouri Department of Elementary and Secondary Education (DESE) in 1997, and issued its monitoring report on January 8, 1998. The State has submitted documentation that it completed all of the required actions in its approved Corrective Action Plan.

OSEP's March 20, 2003 letter responding to Missouri's 2002 Self-Assessment identified two areas in which the Self-Assessment included facts that indicated noncompliance with the requirements of Part B, compliance with Part B requirements for youth with disabilities in city and county jails and State-wide assessments.

- ***General Supervision for Youth with Disabilities in City and County Jails:*** In the Self-Assessment, the State acknowledged that DESE had not monitored local districts for provision of a free appropriate public education (FAPE) to eligible youth with disabilities in city and county jails. This is inconsistent with 34 CFR §300.600 and 20 U.S.C. §1232d, which require that DESE have a proper method of monitoring and ensuring compliance in all programs providing special education and related services to children with disabilities, including eligible youth with disabilities in city and county jails.

The IP indicated that: (a) DESE would revise its monitoring procedures to incorporate interview of district staff and student file review specific to locating and providing services to youth with disabilities held in city and county jails; (b) by the end of July 2004, DESE would complete year one program reviews of the monitoring

of local districts for the provision of special education and related services to eligible youth held in city and county jails; and (c) DESE would analyze the monitoring results to determine the level of understanding and compliance with IDEA requirements for locating and providing services to youth with disabilities held in city and county jails by July 2005.

During OSEP's December 2003 verification visit, DESE informed OSEP that it had begun, as part of its on-site special education monitoring visits during the 2003-2004 school year, to collect data as to whether school districts are identifying, and providing FAPE to, eligible individuals with disabilities in city and county jails. Beginning with the 2004-2005 school year, the provision of services to these individuals also will be part of the special education self-assessment that each district must submit once every five years.

OSEP is accepting Missouri's IP submission on this issue with the following amendments related to reporting to OSEP. Specifically, DESE must: (1) within six months of the date of this letter, provide OSEP with an interim progress report including data demonstrating that DESE is monitoring public agencies on all Part B requirements for youth with disabilities in city and county jails; and (2) within 30 days after one year from this letter, provide OSEP with a final report that demonstrates that DESE is monitoring public agencies on, and ensuring compliance with, all Part B requirements for youth with disabilities held in city and county jails.

- ***State-wide Assessment:*** OSEP's March 20, 2003 letter responding to Missouri's 2002 Self-Assessment noted that it appeared from that document that some students whose Individualized Education Program (IEP) team decided should take the alternate assessment did not actually take that assessment. OSEP further stated that this appeared to indicate that the State did not ensure that children with disabilities participated in the alternate assessment if the IEP team determined that it was not appropriate for them to participate in the regular assessment, as required by 34 CFR §§300.138 and 300.347(a)(5). In its IP submission, DESE stated that, "The intent of the conclusions was misunderstood. All Missouri students were included in the accountability system." OSEP could not determine from the additional information that the State included with its July 3, 2003 IP submission whether or not the State was in fact in compliance.

As part of its December 2003 verification visit to Missouri, OSEP collected additional data regarding the State's compliance with Part B requirements relating to State-wide and district-wide assessments. OSEP's letter reporting on the verification visit (accompanying this letter) sets forth a number of findings of noncompliance with those requirements. As noted in that letter, DESE must, within 60 days of that letter, provide either: (a) documentation that DESE has corrected all of the noncompliance described in that letter with the requirements of 34 CFR §§300.138, 300.139, and 300.347(a)(5) as they apply to both State-wide and district-wide assessments; or (b) for each area of noncompliance that the State has not yet corrected, the State's plan for demonstrating, within one year from the date on which OSEP accepts the plan,

that the State has corrected such noncompliance, including interim (within six months) and final (within 30 days of the one year timeline) reports to OSEP.

Further, as previously noted in OSEP's March 20, 2003 letter responding to Missouri's 2002 Self-Assessment, there were two areas in which OSEP could not, based upon all the data that the State had submitted, determine whether the State was in compliance and the State's revised IP does not adequately address these issues:

- ***Interagency Collaboration:*** As noted in OSEP's March 20, 2003 letter, the Self-Assessment raised potential noncompliance regarding the appropriate and timely evaluation of, and provision of services to, children with disabilities covered under four interagency agreements, and indicated that those agreements may not be fully consistent with Part B requirements. Although the State included general steps in its revised IP that it would take to address this indicator¹, the IP did not specifically address this issue or include information or data that would enable OSEP to make a determination of whether the agreements in question were consistent with Part B requirements and whether the provision of FAPE to eligible children with disabilities was impacted by any alleged inconsistencies.² Within 60 days of this letter, DESE must submit to OSEP copies of the four interagency agreements referenced in the Self-Assessment and the State's analysis of the extent to which they are consistent with Part B requirements. In addition, if the State identifies inconsistencies, it must also submit its plan for demonstrating, within one year of acceptance by OSEP, correction of inconsistencies with Part B and correcting any failures to ensure the provision of FAPE that may have resulted from such inconsistencies. The plan must provide for the State to submit an interim report within six months from OSEP's acceptance of the plan, and a final report within 30 days after one year from OSEP's acceptance of the plan.
- ***Whether There Are Personnel Shortages That Impact FAPE:*** OSEP's March 20, 2003 letter indicated we could not determine from the Self-Assessment the extent to which there are shortages of qualified personnel to provide special education and related services, and—if there are—the impact of such shortages on the provision of timely and appropriate special education and related services. The State included general steps in its revised IP that it would take to address this indicator³, but did not provide any

¹ The IP indicated that: (1) DESE would monitor the implementation of the Plan through the use of new Project Management software; (2) the contents of the plan, including detailed activity plans, would be available to DESE staff for ongoing monitoring of activity timelines and planning activities; (3) DESE would provide reports to both the Special Education Advisory Panel (SEAP) and the State Interagency Coordinating Council (SICC) at its regular meetings; and (4) DESE would continue to receive feedback and input from the advisory groups regarding the activities and progress of the IP.

² Although some States chose to submit interagency agreements to meet the eligibility documentation requirements under 34 CFR §300.142, Missouri chose to submit its regulations instead. Therefore, OSEP does not have and has not reviewed the interagency agreements in question.

³ The IP indicated that the State would: (1) conduct a State-wide study regarding the current duties, amounts of instructional time and caseloads for special education personnel; (2) revise its core data reporting of special education personnel; (3) analyze the results of the study and core data reporting, to determine if changes are needed

conclusions regarding the existence of personnel shortages, their impact on the provision of FAPE, or any data or information that would enable OSEP to make such a determination. We note that the State's Federal Fiscal Year 2002 Part B Annual Performance Report (APR), received May 3, 2004, includes performance and compliance data regarding these issues, and OSEP will further address this issue under separate cover, in our response to the State's APR.

The IP includes two other priority areas on which the State has focused its improvement efforts: (1) increasing the achievement of students with disabilities in elementary grades; and (2) improving post-secondary outcomes for students with disabilities. For each of these priority areas, the IP included goals and strategies that the State would use to improve its performance.

OSEP recognizes that this IP may represent only a portion of the improvement initiatives in the State and encourages you to continue your work to improve results through systemic change. We look forward to continuing our work with DESE as you implement these positive actions designed to improve results for children with disabilities and their families.

Sincerely,

Stephanie Smith Lee
Director
Office of Special Education Programs

cc: Melodie Friedebach